

**California Department of Health Care Services
Proposed May Revision Trailer Bill Legislation**

**Title: Transfer of Drug Medi-Cal Functions from DADP to DHCS
HHS Issue #831**

Welfare and Institutions Code

Section 14021.30 of the Welfare and Institutions Code is added to read:

14021.30 It is the intent of the Legislature, in enacting this act, to transfer to the State Department of Health Care Services, Drug Medi-Cal functions currently performed by the State Department of Alcohol and Drug Programs, without regard to whether or not that Drug Medi-Cal program has been formally created by statute.

Section 14021.31 of the Welfare and Institutions Code is added to read:

14021.31 The State Department of Alcohol and Drug Programs' administration of the Drug Medi-Cal program is hereby transferred to the department effective June 30, 2012.

Section 14021.32 of the Welfare and Institutions Code is added to read:

14021.32 Notwithstanding section 14021.31, the department and the State Department of Alcohol and Drug Programs may conduct transition activities necessary to ensure the efficient transfer of Drug Medi-Cal functions by July 1, 2012.

Section 14021.33 of the Welfare and Institutions Code is added to read:

14021.33 Upon the effective date of this act, the Governor is authorized to make final decisions about the placement of specific programs and offices that are not named in this act in a way that is consistent with the transfer of Drug Medi-Cal functions.

Section 14021.34 of the Welfare and Institutions Code is added to read:

14021.4 (a) All regulations and orders concerning Drug Medi-Cal adopted by the State Department of Alcohol and Drug Programs in effect preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the department, or until they expire by their own terms.

(b) Notwithstanding subdivision (a) or Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for purposes of Drug Medi-Cal, the department may implement, interpret, or make specific this part and amend or repeal regulations and orders subject to this part and adopted by the State Department of Alcohol and Drug Programs by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

Section 14021 of the Welfare and Institutions Code is amended to read:

14021 Notwithstanding any other provision of this chapter, health care shall include the following mental health services:

- (a) Mental health services provided by a county or a city.
- (b) Mental health services provided in a Short-Doyle community mental health service or in a community mental health center organized under the Federal Community Mental Health Centers Act of 1963. No amount shall be paid for that portion of the total costs of care and services in a federally funded community mental health center which may be compensated by the United States government under the Community Mental Health Centers Act of 1963. No amount shall be paid to a Short-Doyle community mental health service or a federally funded community mental health center unless the Short-Doyle community mental health service or the federally funded community mental health center participates in a county or city mental health performance contract pursuant to Section 5650.
- (c) Outpatient drug abuse services under the jurisdiction of the State Department of Alcohol and Drug Programs provided by a county provider certified under this chapter or a private provider certified under this chapter which has an approved contract with the county or with the ~~department~~ State Department of Alcohol and Drug Programs to provide covered drug abuse services.
- (d) Inpatient hospital services in an institution for mental diseases to persons of all ages, provided that the institution for

mental diseases is certified as a psychiatric hospital under Title XVIII of the federal Social Security Act and regulations issued thereunder.

Notwithstanding Section 14157, no money in the State Health Care Deposit Fund shall be expended for the purposes of this section unless the Legislature specifically appropriates money for the purposes of this section.

The amendment of this subdivision enacted at the 1972 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

(e) (1) Other diagnostic, screening, preventive, or remedial rehabilitative services for the maximum restoration of an individual to the best possible functional level.

(2) Paragraph (1) includes any medical or remedial services provided in a facility, home, or other setting, that are recommended by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under state law.

Section 14021.35 of the Welfare and Institutions Code is amended to read:

14021.35. (a) The ~~State Department of Alcohol and Drug Programs~~ department shall prepare amendments to the Medicaid state plan in order to obtain federal financial participation for Drug-Medi-Cal Program provisions contained in subdivision (b) of Section 11758.46 of the ~~Health and Safety Code~~. The department shall review the recommended state plan amendments prepared by the State Department of Alcohol and Drug Programs. If the department determines that the recommended state plan amendments satisfy federal requirements for federal financial participation, the department shall submit an amendment to the Medicaid state plan for medical assistance under Section 1915(g) of the federal Social Security Act (Title 42 U.S.C. Sec. 1396n(g)), to implement Drug-Medi-Cal Program provisions contained in

subdivision (b) of Section ~~11758.46~~14132.901 of the Health and Safety Code.

(b) Upon federal approval for federal financial assistance, the department, ~~in consultation with the State Department of Alcohol and Drug Programs,~~ shall define the new Drug Medi-Cal services, as needed, shall establish the standards under which those services qualify as Drug-Medi-Cal reimbursable services, and shall develop appropriate rates of reimbursement for those services, subject to utilization controls.

Section 11758.42 of the Health and Safety Code is renumbered as Section 14021.51 of the Welfare and Institutions Code and is amended to read:

14021.51. (a) For purposes of this chapter, "LAAM" means levoalphacetylmethadol.

(b) (1) The department shall establish a narcotic replacement therapy dosing fee for methadone and LAAM.

(2) In addition to the narcotic replacement therapy dosing fee provided for pursuant to paragraph (1), narcotic treatment programs shall be reimbursed for the ingredient costs of methadone or LAAM dispensed to Medi-Cal beneficiaries. These costs may be determined on an average daily dose of methadone or LAAM, as set forth by the department.

(c) Reimbursement for narcotic replacement therapy dosing and ancillary services provided by narcotic treatment programs shall be based on a per capita uniform statewide daily reimbursement rate for each individual patient, as established by the department ~~in consultation with the Department of Health Care Services.~~ The uniform statewide daily reimbursement rate for narcotic replacement therapy dosing and ancillary services shall be based upon, where available and appropriate, all of the following:

(1) The outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(2) Cost report data.

(3) Other data deemed reliable and relevant by the department.

(4) The rate studies completed pursuant to Section 54 of Assembly Bill 3483 of the 1995-96 Regular Session of the Legislature.

(d) The uniform statewide daily reimbursement rate for ancillary services shall not exceed, for individual services or in the aggregate, the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(e) The uniform statewide daily reimbursement rate shall be established after consultation with narcotic treatment program providers and county alcohol and drug program administrators.

(f) Reimbursement for narcotic treatment program services shall be limited to those services specified in state law and state and federal regulations governing the licensing and administration of narcotic treatment programs. These services shall include, but are not limited to, all of the following:

- (1) Admission, physical evaluation, and diagnosis.
- (2) Drug screening.
- (3) Pregnancy tests.
- (4) Narcotic replacement therapy dosing.
- (5) Intake assessment, treatment planning, and counseling services. Frequency of counseling or medical psychotherapy, outcomes, and rates shall be addressed through regulations adopted by the department. For purposes of this paragraph, these services include, but are not limited to, substance abuse services to pregnant and postpartum Medi-Cal beneficiaries.

(g) Reimbursement under this section shall be limited to claims for narcotic treatment program services at the uniform statewide daily reimbursement rate for these services. These rates shall be exempt from the requirements of Section 14021.6 of the Welfare and Institutions Code.

(h) (1) Reimbursement to narcotic treatment program providers shall be limited to the lower of either the uniform statewide daily

reimbursement rate, pursuant to subdivision (c), or the provider's usual and customary charge to the general public for the same or similar service.

(2) (A) Reimbursement paid by a county to a narcotic treatment program provider for services provided to any person subject to Section 1210.1 or 3063.1 of the Penal Code, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.

(B) Subparagraph (A) does not constitute a change in, but is declaratory of, existing law.

(i) No program shall be reimbursed for services not rendered to or received by a patient of a narcotic treatment program.

(j) Reimbursement for narcotic treatment program services provided to substance abusers shall be administered by the department and counties electing to participate in the program. Utilization and payment for these services shall be subject to federal Medicaid and state utilization and audit requirements.

(k) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may take the actions specified in this section by means of provider bulletins or notices, policy letters, or other similar instructions without taking regulatory action.

Section 11758.421 of the Health and Safety Code is renumbered as 14021.52 of the Welfare and Institutions Code and is amended to read:

14021.52 (a) (1) The Legislature finds and declares all of the following:

(A) Medical treatment for indigent patients who are not eligible for Medi-Cal is essential to protecting the public health.

(B) The Legislature supports the adoption of standardized and simplified forms and procedures in order to promote the drug

treatment of indigent patients who are not eligible for Medi-Cal.

(C) Providers should not be required by the state to subsidize the medical treatment provided to indigent patients who are not eligible for Medi-Cal.

(D) The Legislature supports the therapeutic value of indigent patients who are not eligible for Medi-Cal contributing some level of fees for drug treatment services in order to support the goals of those drug treatment services.

(2) It is the intent of the Legislature in enacting this section to encourage narcotic treatment program providers to serve indigent patients who are not eligible for Medi-Cal. It is also the intent of the Legislature that the ~~State Department of Alcohol and Drug Programs~~department allow narcotic treatment program providers to charge therapeutic fees for providing drug treatment to indigent patients who are not eligible for Medi-Cal if the providers establish a fee scale that complies with the documentation requirements established pursuant to this section and federal law.

(b) (1) The Legislature recognizes that narcotic treatment program providers are reimbursed for controlled substances provided under the Medi-Cal Drug Treatment Program, also known as Drug Medi-Cal (~~Chapter 3.4 (commencing with Section 11758.40)~~), and pursuant to federal law at a rate that is the lower of the per capita uniform statewide daily reimbursement or Drug Medi-Cal rate, or the provider's usual and customary charge to the general public for the same or similar services.

(2) It furthers the intent of the Legislature to ensure that narcotic treatment programs in the state are able to serve indigent clients and that there is an exception to the reimbursement requirements described in paragraph (1), as the federal law has been interpreted by representatives with the Centers for Medicare and Medicaid Services. Pursuant to this exception, if a narcotic

treatment program provider who is serving low-income non-Drug Medi-Cal clients complies with a federal requirement for the application of a sliding indigency scale, the reduced charges under the sliding indigency scale shall not lower the provider's usual and customary charge determination for purposes of Medi-Cal reimbursement.

(c) A licensed narcotic treatment program provider that serves low-income non-Drug Medi-Cal clients shall be deemed in compliance with federal and state law, for purposes of the application of the exception described in paragraph (2) of subdivision (b), and avoid audit disallowances, if the provider implements a sliding indigency scale that meets all of the following requirements:

(1) The maximum fee contained in the scale shall be the provider's full nondiscounted, published charge and shall be at least the rate that Drug Medi-Cal would pay for the same or similar services provided to Drug Medi-Cal clients.

(2) The sliding indigency scale shall provide for an array of different charges, based upon a client's ability to pay, as measured by identifiable variables. These variables may include, but need not be limited to, financial information and the number of dependents of the client.

(3) Income ranges shall be in increments that result in a reasonable distribution of clients paying differing amounts for services based on differing abilities to pay.

(4) A provider shall obtain written documentation that supports an indigency allowance under the sliding indigency scale established pursuant to this section, including a financial determination. In cases where this written documentation cannot be obtained, the provider shall document at least three attempts to obtain this written documentation from a client.

(5) The provider shall maintain all written documentation that

supports an indigency allowance under this section, including, if used, the financial evaluation form set forth in Section ~~41758.425~~14021.53.

(6) Written policies shall be established and maintained that set forth the basis for determining whether an indigency allowance may be granted under this section and establish what documentation shall be requested from a client.

(d) In developing the sliding indigency scale, a narcotic treatment program provider shall consider, but need not include, any or all of the following components:

(1) Vertically, the rows would reflect increments of family or household income. There would be a sufficient number of increments to allow for differing charges, such as a six hundred dollar (\$600) increase per interval.

(2) Horizontally, the columns would provide for some other variable, such as family size, in which case, the columns would reflect the number of people dependent on the income, including the client.

(3) Each row, except the first and last rows, would contain at least two different fee amounts and each of the columns, four or more in number, would contain at least six different fee amounts.

(4) The cells would contain an array of fees so that no fee would be represented in more than 25 percent of the cells.

(e) A narcotic treatment program provider that uses the financial evaluation form instructions and financial form set forth in Section ~~41758.425~~14021.53 in obtaining written documentation that supports an indigency allowance as required under paragraph (4) of subdivision (c) shall be deemed in compliance with that paragraph.

(f) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may take the actions specified in this section by means of provider bulletins or notices, policy letters, or other similar instructions without taking regulatory action.

Section 11758.425 of the Health and Safety Code is renumbered as 14021.53 of the Welfare and Institutions Code and is amended to read

14021.53. A narcotic treatment program provider may use the following instructions and financial evaluation form to comply with the requirements of paragraph (4) of subdivision (c) of Section ~~11758.424~~ 14021.52:

FINANCIAL EVALUATION FORM INSTRUCTIONS

MONTHLY INCOME DATA--This data should specify the source and the amount and be supported by sufficient documentation. Income data may include, but are not limited to, income received as a paid employee, unemployment benefits, disability benefits, pension payments, family income, savings income, or other sources.

MONTHLY EXPENSES DATA--This data is not required unless there is no evidence or documentation of income data. Expense data may include, but are not limited to, any known expenses related to the following:

- (1) Court-ordered payments, such as child support, fines, debts, restitution, or other payments.
- (2) Housing-related expenses, such as rent, mortgage, insurance, utilities, or other obligations.
- (3) Transportation costs, such as any related expenses, including automobile payments or automobile insurance payments.
- (4) Insurance coverage should also be noted if it produces either an expense or benefit to the client.

CLIENT MONTHLY TREATMENT FEE--The following applies to this data:

- (1) The amount box indicates the client's fee according to his or her location on the sliding scale.
- (2) The adjusted client monthly fee box is to be filled only if the fee to be charged differs from the fee indicated by the client's location on the sliding scale.
- (3) If the fee is adjusted from what the sliding scale would

indicate, a reason for the adjustment must be provided. (Valid reasons might include extraordinary medical expenses for a client suffering from HIV/AIDS, etc.)

PLEASE NOTE--The documentation for this form requires that the provider make at least three documented attempts to collect documentation from a client. Any questions on this form may be directed to the department at (____).

Section 14021.6 of the Welfare and Institutions Code is amended to read:

14021.6. (a) For the fiscal years prior to fiscal year 2004-05 , and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from available cost data by modality from the fiscal year that is two years prior to the year for which the rate is being established.

(b) (1) For the fiscal year 2007-08, and subsequent fiscal years, and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from the most recently completed cost reports, by specific service codes that are consistent with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(2) For the fiscal years 2005-06 and 2006-07, if the State Department of Health Care Services and the State Department of Alcohol and Drug Programs determine that reasonably reliable and complete cost report data are available, the methodology specified in this subdivision shall be applied to either or both of those years. If reasonably reliable and complete cost report data are not available, the State Department of Health Care Services and the State Department of Alcohol and Drug Programs shall establish rates for either or both of those years based upon the usual, customary, and reasonable charge for the services to be provided, as these two

departments may determine in their discretion. This subdivision is not intended to modify subdivision (k) of Section 11758.46 of the Health and Safety Code, that requires certain providers to submit performance reports.

(c) Notwithstanding subdivision (a), for the 1996-97 fiscal year, the rates for nonperinatal outpatient methadone maintenance services shall be set at the rate established for the 1995-96 fiscal year.

(d) Notwithstanding subdivision (a), the maximum allowable rate for group outpatient drug free services shall be set on a per person basis. A group shall consist of a minimum of four and a maximum of 10 individuals, at least one of which shall be a Medi-Cal eligible beneficiary.

(e) The department shall develop individual and group rates for extensive counseling for outpatient drug free treatment, based on a 50-minute individual or a 90-minute group hour, not to exceed the total rate established for subdivision (d).

(f) (1) The department may adopt regulations as necessary to implement subdivisions (a), (b), and (c), or to implement cost containment procedures. These regulations may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these emergency regulations shall be deemed an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(2) Notwithstanding paragraph 1 and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may take the actions specified in this section by means of provider bulletins or notices, policy letters, or other similar instructions without taking regulatory action.

Section 14021.9 of the Welfare and Institutions Code is amended to read:

14021.9. (a) Notwithstanding any other law, for the 2009-10 fiscal year, a 10-percent reduction shall be applied to rates for Drug Medi-Cal services developed by the State Department of Alcohol and Drug Programs pursuant to Section 11758.42 of the Health and Safety Code and Sections 14021.35, 14021.5, and 14021.6.

(b) For the 2010-11 and 2011-12 fiscal year ~~and each fiscal year thereafter~~, rates for Drug Medi-Cal reimbursable services shall be the lower of the following:

(1) The rates developed by the State Department of Alcohol and Drug Programs pursuant to Section 11758.42 of the Health and Safety Code and Sections 14021.35, 14021.5, and 14021.6.

(2) The rates applicable in the 2009-10 fiscal year pursuant to subdivision (a), adjusted for the cumulative growth in the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as reported by the Department of Finance.

(c) The rate reductions applicable for the 2009-10 fiscal year pursuant to subdivision (a) shall be applied retroactively to July 1, 2009.

(d) For the ~~2011-12~~2012-13 fiscal year and each fiscal year thereafter, rates for Drug Medi-Cal reimbursable services shall be the lower of the following:

(1) The rates developed by the State Department of Health Care Services pursuant to Sections 14021.35, 14021.5, 14021.51 and 14021.6.

(2) The rates applicable in the 2009-10 fiscal year pursuant to subdivision (a), adjusted for the cumulative growth in the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as reported by the Department of Finance.

(e) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may take the actions specified in this section by means of provider bulletins or notices, policy letters, or other similar instructions without taking regulatory action.

Section 11758.40 of the Health and Safety Code is renumbered as Section 14096 of the Welfare and Institutions Code and is amended to read:

14096. ~~Notwithstanding subdivision (c) of Section 11758.23,~~ The department may enter into a Medi-Cal Drug Treatment Program contract with each county for the provision of services within the county service area. Contracts entered into pursuant to this section shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

Section 11758.43 of the Health and Safety Code is renumbered as Section 14097 of the Welfare and Institutions Code and is amended to read:

14097. To the extent any county refuses to execute the Medi-Cal Drug Treatment Program contract in accordance with the requirements of federal medicaid and state Medi-Cal laws, and in accordance with the federal court order and any future action in the case of *Sobky v. Smoley*, 855 F. Supp. 1123 (E. D. Cal.), the department shall contract directly with the certified providers in that county, and retain that portion of that county's state General Fund allocation necessary to meet the cost of providing services to eligible beneficiaries and the costs to the state of administering the Medi-Cal Drug Treatment Program contracts.

Section 11758.44 of the Health and Safety Code is renumbered as Section 14098 of the Welfare and Institutions Code and is amended to read:

14098. (a) In addition to narcotic treatment program services, a narcotic treatment program provider who is also enrolled as a Medi-Cal provider, may provide medically necessary medical treatment of concurrent diseases, within the scope of the provider's practice, to Medi-Cal beneficiaries who are not enrolled in managed care plans. Medi-Cal beneficiaries enrolled in managed care plans shall be referred to those plans for receipt of medically necessary medical treatment of concurrent diseases.

(b) Diagnosis and treatment of concurrent diseases of Medi-Cal beneficiaries not enrolled in managed care plans by a narcotic treatment program provider may be provided within the Medi-Cal

coverage limits. When the services are not part of the substance abuse treatment reimbursed pursuant to Section ~~11758.42~~14021.51 services shall be reimbursed at Medi-Cal program outpatient rates. Services reimbursable under this section shall include, but are not limited to, all of the following:

- (1) Medical treatment visits.
- (2) Diagnostic blood, urine, and X-rays.
- (3) Psychological and psychiatric tests and services.
- (4) Quantitative blood and urine toxicology assays.
- (5) Medical supplies.

(c) A narcotics treatment program provider, who is enrolled as a Medi-Cal fee-for-service provider, shall not seek reimbursement from a beneficiary for substance abuse treatment services, if services for treatment of concurrent diseases are billed to the Medi-Cal fee-for-service program.

Section 11758.45 of the Health and Safety Code is renumbered as Section 14099 of the Welfare and Institutions Code and is amended to read:

14099. The department may enter into procurement contracts in accordance with Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, for the procurement of services to assist the department in administering the Medi-Cal Drug Treatment Program. Contracts entered into pursuant to this section shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

Section 14132.90 is amended to read:

14132.90. (a) As of September 15, 1995, day care habilitative services, pursuant to subdivision (c) of Section 14021 shall be provided only to alcohol and drug exposed pregnant women and women in the postpartum period, or as required by federal law.

(b) (1) Notwithstanding any other provision of law, except to the extent required by federal law, if, as of May 15, 2000, the projected costs for the 1999-2000 fiscal year for outpatient drug abuse services, as described in Section 14021, exceed forty-five million dollars (\$45,000,000) in state General Fund moneys, then the outpatient drug free services, as defined in Section 51341.1 of Title 22 of the California Code of Regulations, shall not be a benefit under this chapter as of July 1, 2000.

(2) Notwithstanding paragraph (1), narcotic replacement therapy and Naltrexone shall remain benefits under this chapter.

(3) Notwithstanding paragraph (1), residential care, outpatient drug free services, and day care habilitative services, for alcohol and drug exposed pregnant women and women in the postpartum period shall remain benefits under this chapter.

(c) Expenditures for services purchased at the direction of county welfare departments on behalf of CalWORKs recipients shall not be included in the computation of costs for subdivision (b).

~~(d) For the 1999-2000 fiscal year and each fiscal year thereafter, there shall be separate annual fiscal year General Fund appropriations for drug Medi-Cal perinatal services (Item 4200-104-0001 of the Budget Act), drug Medi-Cal nonperinatal services (Item 4200-103-0001 of the Budget Act), nondrug Medi-Cal perinatal services (Item 4200-102-0001 of the Budget Act), and nondrug Medi-Cal nonperinatal services (Item 4200-101-0001 of the Budget Act).~~

~~—(e) Notwithstanding any other provision of law, the State Department of Alcohol and Drug Programs shall maintain a contingency reserve of the reappropriated General Fund moneys for the purpose of dDrug Medi-Cal program expenditures.~~

~~—(f) Unexpended General Fund moneys appropriated for the Drug Medi-Cal program may be transferred for use as nondrug Medi-Cal county expenditures in the current or budget years. Unexpended~~

~~General Fund moneys shall not be transferred from nondrug Medi-Cal to the drug Medi-Cal program for purposes of providing matching funds for federal financial participation.~~

Section 11758.46 of the Health and Safety Code is renumbered as Section 14132.901 of the Welfare and Institutions Code and is amended to read :

14132.901. (a) For purposes of this section, "Drug Medi-Cal reimbursable services" means all of the following services, administered by the department, and to the extent consistent with state and federal law:

- (1) Narcotic treatment programs as set forth in Section ~~11758.42~~ 14021.51.
- (2) Day care rehabilitative services.
- (3) Perinatal residential services for pregnant women and women in the postpartum period.
- (4) Naltrexone services.
- (5) Outpatient drug-free services.

(b) Upon federal approval of a federal Medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, "drug Medi-Cal reimbursable services" shall also include the following, administered by the department, to the extent consistent with state and federal law:

- (1) Notwithstanding subdivision (a) of Section 14132.90 of the Welfare and Institutions Code, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with alcohol or other drug abuse diagnoses.
- (2) Case management services, including supportive services to assist persons with alcohol or other drug abuse diagnoses in gaining access to medical, social, educational, and other needed services.
- (3) Aftercare services.

(c) ~~(1)~~ Annually, the department shall publish procedures for contracting for drug Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

~~(2) The department, county alcohol and drug program administrators, and alcohol and drug service providers shall automate the claiming process and the process for the submission of specific data required in connection with reimbursement for drug Medi-Cal services, except that this requirement applies only if funding is available from sources other than those made available for treatment or other services.~~

(d) A county or a contractor for the provision of drug Medi-Cal reimbursable services shall notify the department, within 30 days of the receipt of the county allocation, of its intent to contract, as a component of the ~~single-state-county~~ Drug Medi-Cal contract, and provide certified services pursuant to Section ~~11758.42~~14021.51, for the proposed budget year. The notification shall include an accurate and complete budget proposal, the structure of which shall be mutually agreed to by county alcohol and drug program administrators and the department, in the format provided by the department, for specific services, for a specific time period, and including estimated units of service, estimated rate per unit consistent with law and regulations, and total estimated cost for appropriate services.

(e) (1) Within 30 days of receipt of the proposal described in subdivision (d), the department shall provide, to counties and contractors proposing to provide drug Medi-Cal reimbursable services in the proposed budget year, a proposed multiple-year contract, ~~as a component of the single state-county contract~~, for these services, a current utilization control plan, and appropriate administrative procedures.

~~(2) A county contracting for alcohol and drug services shall~~

~~receive a single state county contract for the net negotiated amount and drug Medi-Cal services.~~

(3)(2) Contractors contracting for drug Medi-Cal reimbursable services shall receive a drug Medi-Cal contract.

(f) (1) Upon receipt of a contract proposal pursuant to subdivision (d), a county or a contractor seeking to provide reimbursable drug Medi-Cal services and the department may begin negotiations and the process for contract approval.

(2) If a county does not approve ~~a~~the drug Medi-Cal contract by July 1 of the appropriate fiscal year, in accordance with subdivisions (c) to (e), inclusive, the county shall have 30 additional days in which to approvethe drug Medi-Calacontract . If the county has not approved the drug Medi-Calcontract by the end of that 30-day period, the department shall contract directly for services within 30 days.

(3) Counties shall negotiate contracts only with providers certified to provide reimbursable drug Medi-Cal services and that elect to participate in this program. Upon contract approval by the department, a county shall establish approved contracts with certified providers within 30 days following enactment of the annual Budget Act. A county may establish contract provisions to ensure interim funding pending the execution of final contracts, multiple-year contracts pending final annual approval by the department, and, to the extent allowable under the annual Budget Act, other procedures to ensure timely payment for services.

(g) (1) For counties and contractors providing drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from state General Fund moneys shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(2) For counties and contractors providing drug Medi-Cal reimbursable services, pursuant to approved contracts, and that have accurate and complete

claims, reimbursement for services from federal Medicaid funds shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(3) The ~~State Department of Health Care Services, and the~~ department, shall develop methods to ensure timely payment of drug Medi-Cal claims.

(4) The ~~State Department of Health Care Services, in cooperation with the~~ department, shall take steps necessary to streamline the billing systems for reimbursable drug Medi-Cal services, to ~~assist the department in meeting~~ meet the billing provisions set forth in this subdivision.

~~—(h) The department shall submit a proposed interagency agreement to the State Department of Health Care Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Care Services. Final approval shall be completed within 45 days of enactment of the Budget Act.~~

(i) (1) A county or a provider certified to provide reimbursable ~~d~~Drug Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (j) applies, shall submit accurate and complete cost reports for the previous fiscal year by November 1, following the end of the fiscal year. The department may settle cost for drug Medi-Cal reimbursable services, based on the cost report as the final amendment to the approved ~~single state-county~~ Drug Medi-Cal contract.

(j) Certified narcotic treatment program providers that are exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 or 3063.1 of the Penal Code or Section ~~11758.42~~ 14021.52 of this code shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that fiscal year. A provider to which this

subdivision applies shall estimate its budgets using the uniform state daily reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators Association of California, and representatives of the treatment providers.

(j) Contracts entered into pursuant to this section shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(k) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may take the actions specified in this section by means of provider bulletins or notices, policy letters, or other similar instructions without taking regulatory action.

Section 11758.47 of the Health and Safety Code is renumbered as Section 14132.902 of the Welfare and Institutions Code and is amended to read :

14132.902. Service providers may assist Medi-Cal beneficiaries, upon request, to file a fair hearing request in accordance with Chapter 7 (commencing with Section 10950) of Part 2 of Division 9 of the Welfare and Institutions Code, or may inform Medi-Cal beneficiaries enrolled in Medi-Cal managed care plans about the Department of Managed Health Care's toll-free telephonenumber for health care service plan members or the department's State Department of Health Services' ombudsman for Medi-Cal beneficiaries enrolled in Medi-Cal managed care plans.

Uncodified Section XX

The amendments to Welfare and Institutions Code Sections 14021, 14021.35, 14021.51, 14021.52, 14021.53, 14021.6, 14021.9, 14096 through 14099, and 14132.90 through 14132.902 shall become operative July 1, 2012.

HEALTH AND SAFETY CODE

Section 11758.12 is amended to read:

11758.12. (a) A negotiated net amount, for the purposes of this chapter, shall be determined by calculating the total budget for services less the amount of projected revenue. These net amounts for alcohol or other drug services, or both, shall be negotiated for each year of the contract between the participating county and the department and shall be disbursed to participating counties monthly in arrears, upon enactment of the Budget Act. Monthly disbursements to the participating county at the beginning of each fiscal year shall be based on the preliminary allocation of funds issued by the department. The payments shall be based on appropriations made by the Legislature and monthly payments shall be adjusted to reflect reductions and deletions made by the Legislature. The department shall have the option to either terminate this agreement or amend the contract to reflect the reduced funding. The payments shall continue at the adjusted level until the negotiated contract is amended to reflect the final State Budget for the fiscal year and the final allocation to the counties.

(b) Where the State Department of Health Care Services adopts regulations for determining reimbursement of county alcohol and other drug program plan services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of these services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries.

(c) Participating counties shall report to the department any information required by the department in accordance with, but shall not exceed, any statutory restrictions, limitations, or conditions enacted by the Legislature, including the applicable Budget Act, or

federal law and regulations.

(d) Absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in an executed negotiated net amount contract ~~or, a Drug Medi-Cal contract,~~ and an approved county plan, whichever is applicable, shall be placed upon a county's expenditure or retention of state General Fund funds received pursuant to this chapter, ~~with the exception of state General Fund funds used as a match for Drug Medi-Cal federal financial participation.~~

(e) Unspent state General Fund moneys identified after a date specified in the contract shall be retained by the county and spent on identifiable drug and alcohol service priorities in accordance with the contract.

Section 11758.20 is amended to read:

11758.20. (a) The department shall negotiate net amount contracts with each county that requests to participate, in lieu of county plans, budgets, and reports.

(b) The department shall allocate funds for the purpose of establishing negotiated net amount contracts, ~~Drug Medi-Cal contracts, or both,~~ with each participating county in accordance with Sections 11814 and 11817.3.

11758.23. (a) The department and counties shall calculate the negotiated net amount, for the purposes of Section 11758.20, by calculating the total budget for services less the amount of projected revenue. These net amounts for alcohol and other drug services shall be negotiated each fiscal year between the participating counties and the department and shall be disbursed to participating counties on a monthly basis.

(b) No contract shall become final until executed by both the participating county and the department. A contract shall be executed by September 30, and shall cover the fiscal year period from July 1 to June 30, inclusive. In the event the participating county or the department does not execute the contract by September 30, or in the event a contract is timely executed, but the county does not meet the performance requirements of the contract, the county shall be compensated for work performed upon submission by the county of a county plan in accordance with Section 11798.

(c) When a negotiated net amount contract is executed by the department, all participating government funding sources, ~~except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code)~~ and federal funds, shall be bound to that amount as the cost of providing alcohol or other drug services, subject to meeting the performance requirements in the contract.

Section 11758.40 is amended to read:

11758.40. (a) Notwithstanding subdivision (c) of Section 11758.23, the department may enter into a Medi-Cal Drug Treatment Program contract with each county for the provision of services within the county service area.

(b) This section is repealed as of June 30, 2012.

Section 11758.41 is added:

11758.41 (a) For purposes of Division 10.5, any reference to “Drug Medi-Cal Contract” or “Medi-Cal Drug Treatment Program contract” shall mean the contract entered into between the State Department of Health Care Services and a county or a drug medi-cal provider pursuant to Welfare and Institutions Code Section 14096.

(b) This section shall become operative June 30, 2012.

Section 11758.42 is amended to read:

11758.42. (a) For purposes of this chapter, "LAAM" means levoalphacetylmethadol.

(b) (1) The department shall establish a narcotic replacement therapy dosing fee for methadone and LAAM.

(2) In addition to the narcotic replacement therapy dosing fee provided for pursuant to paragraph (1), narcotic treatment programs shall be reimbursed for the ingredient costs of methadone or LAAM dispensed to Medi-Cal beneficiaries. These costs may be determined on an average daily dose of methadone or LAAM, as set forth by the department, in consultation with the State Department of Health Care Services.

(c) Reimbursement for narcotic replacement therapy dosing and ancillary services provided by narcotic treatment programs shall be based on a per capita uniform statewide daily reimbursement rate for each individual patient, as established by the department, in consultation with the State Department of Health Care Services. The uniform statewide daily reimbursement rate for narcotic replacement therapy dosing and ancillary services shall be based upon, where available and appropriate, all of the following:

(1) The outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(2) Cost report data.

(3) Other data deemed reliable and relevant by the department.

(4) The rate studies completed pursuant to Section 54 of Assembly Bill 3483 of the 1995-96 Regular Session of the Legislature.

(d) The uniform statewide daily reimbursement rate for ancillary services shall not exceed, for individual services or in the

aggregate, the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(e) The uniform statewide daily reimbursement rate shall be established after consultation with narcotic treatment program providers and county alcohol and drug program administrators.

(f) Reimbursement for narcotic treatment program services shall be limited to those services specified in state law and state and federal regulations governing the licensing and administration of narcotic treatment programs. These services shall include, but are not limited to, all of the following:

- (1) Admission, physical evaluation, and diagnosis.
- (2) Drug screening.
- (3) Pregnancy tests.
- (4) Narcotic replacement therapy dosing.
- (5) Intake assessment, treatment planning, and counseling services. Frequency of counseling or medical psychotherapy, outcomes, and rates shall be addressed through regulations adopted by the department. For purposes of this paragraph, these services include, but are not limited to, substance abuse services to pregnant and postpartum Medi-Cal beneficiaries.

(g) Reimbursement under this section shall be limited to claims for narcotic treatment program services at the uniform statewide daily reimbursement rate for these services. These rates shall be exempt from the requirements of Section 14021.6 of the Welfare and Institutions Code.

(h) (1) Reimbursement to narcotic treatment program providers shall be limited to the lower of either the uniform statewide daily reimbursement rate, pursuant to subdivision (c), or the provider's usual and customary charge to the general public for the same or similar service.

(2) (A) Reimbursement paid by a county to a narcotic treatment

program provider for services provided to any person subject to Section 1210.1 or 3063.1 of the Penal Code, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.

(B) Subparagraph (A) does not constitute a change in, but is declaratory of, existing law.

(i) No program shall be reimbursed for services not rendered to or received by a patient of a narcotic treatment program.

(j) Reimbursement for narcotic treatment program services provided to substance abusers shall be administered by the department and counties electing to participate in the program. Utilization and payment for these services shall be subject to federal Medicaid and state utilization and audit requirements.

(k) This section is repealed as of June 30, 2012.

Section 11758.421 is amended to read:

11758.421. (a) (1) The Legislature finds and declares all of the following:

(A) Medical treatment for indigent patients who are not eligible for Medi-Cal is essential to protecting the public health.

(B) The Legislature supports the adoption of standardized and simplified forms and procedures in order to promote the drug treatment of indigent patients who are not eligible for Medi-Cal.

(C) Providers should not be required by the state to subsidize the medical treatment provided to indigent patients who are not eligible for Medi-Cal.

(D) The Legislature supports the therapeutic value of indigent patients who are not eligible for Medi-Cal contributing some level of fees for drug treatment services in order to support the goals of

those drug treatment services.

(2) It is the intent of the Legislature in enacting this section to encourage narcotic treatment program providers to serve indigent patients who are not eligible for Medi-Cal. It is also the intent of the Legislature that the State Department of Alcohol and Drug Programs allow narcotic treatment program providers to charge therapeutic fees for providing drug treatment to indigent patients who are not eligible for Medi-Cal if the providers establish a fee scale that complies with the documentation requirements established pursuant to this section and federal law.

(b) (1) The Legislature recognizes that narcotic treatment program providers are reimbursed for controlled substances provided under the Medi-Cal Drug Treatment Program, also known as Drug Medi-Cal (Chapter 3.4 (commencing with Section 11758.40)), and pursuant to federal law at a rate that is the lower of the per capita uniform statewide daily reimbursement or Drug Medi-Cal rate, or the provider's usual and customary charge to the general public for the same or similar services.

(2) It furthers the intent of the Legislature to ensure that narcotic treatment programs in the state are able to serve indigent clients and that there is an exception to the reimbursement requirements described in paragraph (1), as the federal law has been interpreted by representatives with the Centers for Medicare and Medicaid Services. Pursuant to this exception, if a narcotic treatment program provider who is serving low-income non-Drug Medi-Cal clients complies with a federal requirement for the application of a sliding indigency scale, the reduced charges under the sliding indigency scale shall not lower the provider's usual and customary charge determination for purposes of Medi-Cal reimbursement.

(c) A licensed narcotic treatment program provider that serves

low-income non-Drug Medi-Cal clients shall be deemed in compliance with federal and state law, for purposes of the application of the exception described in paragraph (2) of subdivision (b), and avoid audit disallowances, if the provider implements a sliding indigency scale that meets all of the following requirements:

(1) The maximum fee contained in the scale shall be the provider's full nondiscounted, published charge and shall be at least the rate that Drug Medi-Cal would pay for the same or similar services provided to Drug Medi-Cal clients.

(2) The sliding indigency scale shall provide for an array of different charges, based upon a client's ability to pay, as measured by identifiable variables. These variables may include, but need not be limited to, financial information and the number of dependents of the client.

(3) Income ranges shall be in increments that result in a reasonable distribution of clients paying differing amounts for services based on differing abilities to pay.

(4) A provider shall obtain written documentation that supports an indigency allowance under the sliding indigency scale established pursuant to this section, including a financial determination. In cases where this written documentation cannot be obtained, the provider shall document at least three attempts to obtain this written documentation from a client.

(5) The provider shall maintain all written documentation that supports an indigency allowance under this section, including, if used, the financial evaluation form set forth in Section 11758.425.

(6) Written policies shall be established and maintained that set forth the basis for determining whether an indigency allowance may be granted under this section and establish what documentation shall be requested from a client.

(d) In developing the sliding indigency scale, a narcotic

treatment program provider shall consider, but need not include, any or all of the following components:

(1) Vertically, the rows would reflect increments of family or household income. There would be a sufficient number of increments to allow for differing charges, such as a six hundred dollar (\$600) increase per interval.

(2) Horizontally, the columns would provide for some other variable, such as family size, in which case, the columns would reflect the number of people dependent on the income, including the client.

(3) Each row, except the first and last rows, would contain at least two different fee amounts and each of the columns, four or more in number, would contain at least six different fee amounts.

(4) The cells would contain an array of fees so that no fee would be represented in more than 25 percent of the cells.

(e) A narcotic treatment program provider that uses the financial evaluation form instructions and financial form set forth in Section 11758.425 in obtaining written documentation that supports an indigency allowance as required under paragraph (4) of subdivision (c) shall be deemed in compliance with that paragraph.

(f) This section is repealed as of June 30, 2012.

Section 11758.425 is amended to read:

11758.425. (a) A narcotic treatment program provider may use the following instructions and financial evaluation form to comply with the requirements of paragraph (4) of subdivision (c) of Section 11758.421:

FINANCIAL EVALUATION FORM INSTRUCTIONS

MONTHLY INCOME DATA--This data should specify the source and the

amount and be supported by sufficient documentation. Income data may include, but are not limited to, income received as a paid employee, unemployment benefits, disability benefits, pension payments, family income, savings income, or other sources.

MONTHLY EXPENSES DATA--This data is not required unless there is no evidence or documentation of income data. Expense data may include, but are not limited to, any known expenses related to the following:

- (1) Court-ordered payments, such as child support, fines, debts, restitution, or other payments.
- (2) Housing-related expenses, such as rent, mortgage, insurance, utilities, or other obligations.
- (3) Transportation costs, such as any related expenses, including automobile payments or automobile insurance payments.
- (4) Insurance coverage should also be noted if it produces either an expense or benefit to the client.

CLIENT MONTHLY TREATMENT FEE--The following applies to this data:

- (1) The amount box indicates the client's fee according to his or her location on the sliding scale.
- (2) The adjusted client monthly fee box is to be filled only if the fee to be charged differs from the fee indicated by the client's location on the sliding scale.
- (3) If the fee is adjusted from what the sliding scale would indicate, a reason for the adjustment must be provided. (Valid reasons might include extraordinary medical expenses for a client suffering from HIV/AIDS, etc.)

PLEASE NOTE--The documentation for this form requires that the provider make at least three documented attempts to collect documentation from a client. Any questions on this form may be directed to the department at (____).

(b) This section is repealed as of June 30, 2012.

Section 11758.43 is amended to read:

11758.43. (a) To the extent any county refuses to execute the Medi-Cal Drug Treatment Program contract in accordance with the requirements of federal medicaid and state Medi-Cal laws, and in accordance with the federal court order and any future action in the case of Sobky v. Smoley, 855 F. Supp. 1123 (E. D. Cal.), the department shall contract directly with the certified providers in that county, and retain that portion of that county's state General Fund allocation necessary to meet the cost of providing services to eligible beneficiaries and the costs to the state of administering the Medi-Cal Drug Treatment Program contracts.

(b) This section is repealed as of June 30, 2012.

Section 11758.44 is amended to read:

11758.44. (a) In addition to narcotic treatment program services, a narcotic treatment program provider who is also enrolled as a Medi-Cal provider, may provide medically necessary medical treatment of concurrent diseases, within the scope of the provider's practice, to Medi-Cal beneficiaries who are not enrolled in managed care plans. Medi-Cal beneficiaries enrolled in managed care plans shall be referred to those plans for receipt of medically necessary medical treatment of concurrent diseases.

(b) Diagnosis and treatment of concurrent diseases of Medi-Cal beneficiaries not enrolled in managed care plans by a narcotic treatment program provider may be provided within the Medi-Cal coverage limits. When the services are not part of the substance

abuse treatment reimbursed pursuant to Section 11758.42, services shall be reimbursed at Medi-Cal program outpatient rates. Services reimbursable under this section shall include, but are not limited to, all of the following:

- (1) Medical treatment visits.
- (2) Diagnostic blood, urine, and X-rays.
- (3) Psychological and psychiatric tests and services.
- (4) Quantitative blood and urine toxicology assays.
- (5) Medical supplies.

(c) A narcotics treatment program provider, who is enrolled as a Medi-Cal fee-for-service provider, shall not seek reimbursement from a beneficiary for substance abuse treatment services, if services for treatment of concurrent diseases are billed to the Medi-Cal fee-for-service program.

(d) This section is repealed as of June 30, 2012.

Section 11758.45 is amended to read:

11758.45. (a) The department may enter into procurement contracts in accordance with Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, for the procurement of services to assist the department in administering the Medi-Cal Drug Treatment Program.

(b) This section is repealed as of June 30, 2012.

Section 11758.46 is amended to read:

11758.46. (a) For purposes of this section, "drug Medi-Cal services" means all of the following services, administered by the department, and to the extent consistent with state and federal law:

- (1) Narcotic treatment program services, as set forth in Section 11758.42.
- (2) Day care rehabilitative services.
- (3) Perinatal residential services for pregnant women and women in the postpartum period.
- (4) Naltrexone services.
- (5) Outpatient drug-free services.

(b) Upon federal approval of a federal Medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, "drug Medi-Cal services" shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Notwithstanding subdivision (a) of Section 14132.90 of the Welfare and Institutions Code, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with alcohol or other drug abuse diagnoses.

(2) Case management services, including supportive services to assist persons with alcohol or other drug abuse diagnoses in gaining access to medical, social, educational, and other needed services.

(3) Aftercare services.

(c) (1) Annually, the department shall publish procedures for contracting for drug Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(2) The department, county alcohol and drug program administrators, and alcohol and drug service providers shall automate

the claiming process and the process for the submission of specific data required in connection with reimbursement for drug Medi-Cal services, except that this requirement applies only if funding is available from sources other than those made available for treatment or other services.

(d) A county or a contractor for the provision of drug Medi-Cal services shall notify the department, within 30 days of the receipt of the county allocation, of its intent to contract, as a component of the single state-county contract, and provide certified services pursuant to Section 11758.42, for the proposed budget year. The notification shall include an accurate and complete budget proposal, the structure of which shall be mutually agreed to by county alcohol and drug program administrators and the department, in the format provided by the department, for specific services, for a specific time period, and including estimated units of service, estimated rate per unit consistent with law and regulations, and total estimated cost for appropriate services.

(e) (1) Within 30 days of receipt of the proposal described in subdivision (d), the department shall provide, to counties and contractors proposing to provide drug Medi-Cal services in the proposed budget year, a proposed multiple-year contract, as a component of the single state-county contract, for these services, a current utilization control plan, and appropriate administrative procedures.

(2) A county contracting for alcohol and drug services shall receive a single state-county contract for the net negotiated amount and drug Medi-Cal services.

(3) Contractors contracting for drug Medi-Cal services shall receive a drug Medi-Cal contract.

(f) (1) Upon receipt of a contract proposal pursuant to subdivision (d), a county and a contractor seeking to provide

reimbursable drug Medi-Cal services and the department may begin negotiations and the process for contract approval.

(2) If a county does not approve a contract by July 1 of the appropriate fiscal year, in accordance with subdivisions (c) to (e), inclusive, the county shall have 30 additional days in which to approve a contract. If the county has not approved the contract by the end of that 30-day period, the department shall contract directly for services within 30 days.

(3) Counties shall negotiate contracts only with providers certified to provide reimbursable drug Medi-Cal services and that elect to participate in this program. Upon contract approval by the department, a county shall establish approved contracts with certified providers within 30 days following enactment of the annual Budget Act. A county may establish contract provisions to ensure interim funding pending the execution of final contracts, multiple-year contracts pending final annual approval by the department, and, to the extent allowable under the annual Budget Act, other procedures to ensure timely payment for services.

(g) (1) For counties and contractors providing drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from state General Fund moneys shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(2) For counties and contractors providing drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from federal Medicaid funds shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(3) The State Department of Health Care Services and the department shall develop methods to ensure timely payment of drug Medi-Cal claims.

(4) The State Department of Health Care Services, in cooperation with the department, shall take steps necessary to streamline the billing system for reimbursable drug Medi-Cal services, to assist the department in meeting the billing provisions set forth in this subdivision.

(h) The department shall submit a proposed interagency agreement to the State Department of Health Care Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Care Services by July 1. The interagency agreement shall not take effect until the annual Budget Act is enacted and fiscal estimates are approved by the State Department of Health Care Services. Final approval shall be completed within 45 days of enactment of the Budget Act.

(i) (1) A county or a provider certified to provide reimbursable drug Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (j) applies, shall submit accurate and complete cost reports for the previous fiscal year by November 1, following the end of the fiscal year. The department may settle cost for drug Medi-Cal services, based on the cost report as the final amendment to the approved single state-county contract.

(j) Certified narcotic treatment program providers that are exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 or 3063.1 of the Penal Code or Section 11758.42 of this code shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that fiscal year. A provider to which this

subdivision applies shall estimate its budgets using the uniform state daily reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators Association of California, and representatives of the treatment providers.

(k) This section is repealed as of June 30, 2012.

Section 11758.47 is amended to read:

11758.47. (a) Service providers may assist Medi-Cal beneficiaries, upon request, to file a fair hearing request in accordance with Chapter 7 (commencing with Section 10950) of Part 2 of Division 9 of the Welfare and Institutions Code, or may inform Medi-Cal beneficiaries about the Department of Managed Health Care's toll-free telephone number for health care service plan members or the State Department of Health Care Services' ombudsman for Medi-Cal beneficiaries enrolled in Medi-Cal managed care plans.

(b) This section is repealed as of June 30, 2012.

Section 11814 is amended to read:

11814. (a) The department shall issue allocations to counties for alcohol and other drug programs.

(b) In issuing allocations to counties, it is the intent of the Legislature that counties shall allocate all funds received pursuant to state and federal laws and regulations.

(c) The department shall estimate an allocation of state and federal funds available for each county to implement the approved county plan, or executed negotiated net amount contract, ~~and Drug Medi-Cal contract,~~ whichever is applicable. In making allocations, the department shall base its allocations on the population of each

county. However, the department shall assure that each small population county receives a minimum amount of funds to provide adequate alcohol and other drug services. The department may take into account other factors in making the allocations if the department finds that the factors relate to the level of alcohol and other drug problems in the county. No later than 45 days after introduction of the Budget Bill, the department shall notify each county regarding its preliminary allocation under this division, pending enactment of the Budget Bill. The 1984-85 fiscal year shall establish the base funding for the county alcohol and drug allocation for local programs. Beginning with the 1985-86 fiscal year, cost-of-living adjustments, if granted, shall be considered as tied to the base allocation established in the 1984-85 fiscal year, plus any subsequent cost-of-living adjustments. The department shall notify each county regarding its final allocation after enactment of the Budget Bill.

(d) Notwithstanding any other provision in this section, the director may reduce funding below the base year amounts of counties that underspend their allocation for two consecutive years by more than 5 percent. Any reduction shall be limited to the difference between 5 percent of the allocation and the total amount unspent. The amounts underspent shall be determined based on the most recent cost reports.

Section 11817.3 is amended to read:

11817.3. (a) There shall be an appropriation from the Budget Act to the department to fund programs and services to alleviate problems related to inappropriate alcohol use or other drug use as provided for in this part. However, if the state receives additional funds from the federal government after the enactment of the Budget Act,

which funds may be augmented by the Director of Finance to the appropriation described in this section in accordance with the Budget Act, then the department shall determine the amount of those funds to be used for allocation to counties, and shall allocate that amount to counties with approved amended county plans, or executed negotiated net amount contracts, ~~and amended Drug Medi-Cal contracts~~, whichever is applicable, within 90 days of receipt of the additional funds to support programs and services to alleviate alcohol-related and other drug-related problems as described in this subdivision. The allocation of all funds pursuant to this subdivision shall comply with federal requirements and with any requirements pursuant to Section 28.00 of the Budget Act.

(b) The requirement set forth in subdivision (a) that the department determine the amount of additional funds to be used for allocation to counties and allocate that amount to counties within 90 days, shall be waived when the 90-day period does not allow sufficient time for completion of the notification period pursuant to Section 28.00 of the Budget Act.

(c) As used in this section, "approved amended county plan" means a county plan amended by a county to describe the county's proposed use of the additional or reduced funds available pursuant to this section, which plan is approved by the department.

(d) As used in this section, "executed negotiated net amount contract" ~~or "amended Drug Medi-Cal contract"~~ refers to a contract that is amended by a county to describe the county's proposed use of the additional or reduced funds available pursuant to this section, which contract is approved by the.

Section 11817.8 is amended to read:

11817.8. (a) It is the intent of the Legislature that the state and

the counties work together to minimize audit exceptions. Audit findings as contained in the department audit reports may be appealed by counties directly to the department. Counties may retain disputed audit amounts of state and federal funds unless an audit appeal is filed, and then until the audit appeal is resolved, in whole or in part, against the county.

(b) The department shall audit the expenditures of counties, ~~direct~~ contractors, and county subcontractors. The department shall develop an annual audit plan that will identify the counties, ~~direct~~ contractors, and county subcontractors funded in whole or in part with the funds administered by the department. The annual audit plan shall consist of a sufficient number of audits and financial reviews to provide reasonable assurance that federal and state funds have been used for their intended purpose in accordance with applicable funding requirements and restrictions contained in statutes, regulations, and contracts.

(c) The department may conduct audits and financial related reviews on other than a routine basis of any county, ~~direct~~ contractor, ~~or~~ county subcontractor funded in whole or in part with funds administered by the department, as the department deems necessary and appropriate.

(d) Counties may audit the expenditures of organizations funded in whole or in part with funds administered by the department.

(e) Notwithstanding subdivision (e) of Section 11758.12, counties shall repay to the department amounts of state and federal funds found, as a result of an audit, not to have been expended in accordance with the requirements set forth in this part, federal block grant law, federal or state regulations pertaining to alcohol or other drug abuse services, and the conditions set forth in any contract or interagency agreement. For organizations or services and the conditions set forth in any combination of state, federal, or

other public funds, where a clear audit trail shows that the source and application of these funds is not maintained, repayment shall be determined by prorating audit findings between each funding source.

(f) For those audits conducted by the department, the director shall administratively establish policies and procedures for the resolution of disputed audit findings. The department shall consult with county administrators when proposing changes in the procedures for the resolution of disputed audit findings.

(g) There is established in the State Treasury an Audit Repayment Trust Fund. All undisputed repayments of state funds made pursuant to subdivision (e) and all repayments of state funds resulting from an audit resolution procedure established pursuant to subdivision (f) shall be deposited in this fund. The money in the fund shall be available upon appropriation by the Legislature.

(h) The department may deny or withhold payments or advances of funds to a county if the department finds, by audit or otherwise, that a program is not in compliance with this part, or the net amount contract, ~~and Drug Medi-Cal contract, whichever is applicable.~~

(i) Notwithstanding subdivision (a) of Section 53134 of the Government Code, audits performed pursuant to this section shall be conducted by qualified state or local government auditors or independent public accountants in accordance with generally accepted governing auditing standards, as prescribed by Government Auditing Standards, issued by the Comptroller General of the United States. These audits shall be completed no later than six months after the completion of the audit fieldwork.

Section 11818 is amended to read:

11818. (a) (1) Expenditures made by counties and contract providers that may be paid using appropriated funds subject to payment include salaries of personnel, approved facilities and services provided

through contract, operation, maintenance, and service costs, depreciation of county facilities as established in the State of California's Auditing Standards and Procedures for Counties, disregarding depreciation on the county facility to the extent it was financed by state funds under this part, lease of facilities where there is no intention to, nor option to, purchase, and other expenditures that may be approved by the.

(2) Expenditures made by counties and contract providers that may not be paid using appropriated funds subject to payment include expenditures for initial capital improvement, the purchase or construction of buildings, except for equipment items and remodeling expenses as may be provided in regulations of the department, compensation to members of a local advisory board on drug programs, except actual and necessary expenses incurred in the performance of official duties, and expenditures for a purpose for which state reimbursement is claimed under any other law.

(b) (1) Except as provided in Chapter 3 (commencing with Section 11758.10), the cost of services specified in the county plan, or negotiated net amount contract, ~~and Drug Medi-Cal contract~~, whichever is applicable, shall be based upon reimbursement of actual costs as determined with standard accounting practices. The county may enter into contracts with providers at actual cost or a negotiated rate. Negotiated rate is a specific and fixed dollar rate for a specified unit of service provided. Negotiated rates may be used as the cost of services only between the county and private providers. The negotiated rate shall be approved by the county prior to commencing services for reimbursement and the rate shall be based upon the projected cost of providing the services and projected revenues realized as a result of providing the services. The provider shall make available to the county information on prior years' actual cost of providing the services and actual revenues.

(2) (A) Providers that receive a combination of Medi-Cal funding and other federal or state funding for the same service element and location shall be reimbursed for actual costs as limited by Medi-Cal reimbursement requirements, as specified in Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the medicaid state plan, subdivisions (c) and (d) of Section 51516 of Title 22 of the California Code of Regulations, except that reimbursement for non-Medi-Cal services shall not be limited by Medi-Cal rate requirements or customary charges to privately paying clients.

(B) For those providers who operate under a negotiated rate for non-Medi-Cal reimbursable services, the rates shall be treated as provisional rates, subject to yearend settlement of actual costs.

(3) Notwithstanding any other provision of law, during yearend settlements, the department may pay, from both state and federal funds, prior fiscal year allowable Medi-Cal costs incurred by June 30 of the prior fiscal year that exceed the amount timely encumbered in the prior fiscal year contract. This subparagraph is repealed as of June 30, 2012.

Section 11818.5 is amended to read:

11818.5. (a) Counties shall submit a cost report reflecting the expenditure of funds allocated by the department. An annual cost report for the fiscal year ending June 30 shall be submitted to the department by November 1.

(b) Each county shall be responsible for reviewing its contracts with providers of services and the department may audit these contracts. The cost reports shall be reviewed by the department and interim settlements of claims shall be made expeditiously with each county. Final settlement shall be made at the time of audit, which shall be completed within three years of the date the cost report was accepted for interim settlement by the department. If the audit is

not completed within three years, the interim settlement shall be considered as the final settlement.

(c) Counties shall report estimated numbers and characteristics of clients-participants by type of service in the county plan or net negotiated amount contract and shall report actual numbers and characteristics of clients-participants served by type of service with the annual cost report. The department shall specify forms and procedures to be followed in reporting this information. The fiscal reporting system established pursuant to this section shall supersede the requirements of paragraph (2) of subdivision (b) of Section 16366.7 of the Government Code for a quarterly fiscal reporting system.

Section 11835 is amended to read:

11835. (a) The purposes of any regulations adopted by the department shall be to implement, interpret, or make specific the provisions of this part and shall not exceed the authority granted to the department pursuant to this part. To the extent possible, the regulations shall be written in clear and concise language and adopted only when necessary to further the purposes of this part.

(b) Except as provided in this section, the department may adopt regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code) necessary for the proper execution of the powers and duties granted to and imposed upon the department by this part. However, these regulations may be adopted only upon the following conditions:

(1) Prior to adoption of regulations, the department shall consult with county alcohol and drug program administrators and may consult with any other appropriate persons relating to the proposed regulations.

(2) If an absolute majority of the designated county alcohol and drug program administrators who represent counties that have submitted county plans, or negotiated net amount contracts, ~~or Drug Medi-Cal contracts~~, vote at a public meeting called by the department, for which 45 days' advance notice shall be given by the department, to reject the proposed regulations, the department shall refer the matter for a decision to a committee, consisting of a representative of the county alcohol and drug program administrators, the director, the secretary, and one designee of the secretary. The decision shall be made by a majority vote of this committee at a public meeting convened by the department. Upon a majority vote of the committee recommending adoption of the proposed regulations, the department may then adopt them. Upon a majority vote recommending that the department not adopt the proposed regulations, the department shall then consult again with the county alcohol and drug program administrators and resubmit the proposed regulations to the administrators for a vote pursuant to this subdivision.

(3) In the voting process described in paragraph (2), no proxies shall be allowed nor may anyone other than the designated county alcohol and drug program administrator, director, secretary, and secretary's designee vote at the meetings.

Section 11848 is amended to read:

11848. (a) (1) Alcohol and other drug abuse services allowable under the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) as approved by the department and the State Department of Health Services as qualified for financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) shall be funded, notwithstanding Sections 11817.3, 11840, and 11840.1, at

100 percent of the state and federal cost by using the county's existing state General Fund allocation, as appropriated in the department's annual budget, to first fund the state's portion of the allowable costs.

(2) For each fiscal year there shall be a separate state General Fund appropriation in Item 4200-101-0001 of the department's annual budget for non-Drug Medi-Cal nonperinatal services. There shall also be an appropriation in Item 4200-102-0001 of the department's annual budget for Drug Medi-Cal nonperinatal services.

(3) For each fiscal year there shall be a separate state General Fund appropriation in Item 4200-103-0001 of the department's annual budget for Drug Medi-Cal perinatal services. Non-Drug Medi-Cal perinatal services shall be appropriated in Item 4200-104-0001 of the department's annual budget.

(4) The department shall maintain a contingency reserve of unexpended state General Funds appropriated for Drug Medi-Cal allowable services pursuant to subdivision (e) of Section 14132.90 of the Welfare and Institutions Code.

(5) Unexpended moneys appropriated from the state General Fund for Drug Medi-Cal expenditures may be transferred for use by counties for non-Drug Medi-Cal expenditures. Unexpended moneys appropriated for Drug Medi-Cal expenditures may not be used to provide matching funds for federal financial participation.

(b) The intent of the Legislature in enacting this section is to provide a funding source for counties to establish alcohol and other drug abuse services without any increased costs to the state General Fund and at the same time not to require the county to provide additional matching funds in order for the county to use a portion of its state share of local drug programs Medi-Cal funds now available to counties without a required 10-percent match.

(c) This section is repealed as of June 30, 2012.

Section 11848.5 is amended to read:

11848.5. (a) Once the negotiated rate has been approved by the county, all participating governmental funding sources, except the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code), shall be bound to that rate as the cost of providing all or part of the total county alcohol and other drug program as described in the county plan or net negotiated amount contract for each fiscal year to the extent that the governmental funding sources participate in funding the county alcohol and other drug program.

Where the State Department of Health Care Services adopts regulations for determining reimbursement of alcohol and other drug program services formerly allowable under the Short-Doyle program and reimbursed under the Medi-Cal Act, those regulations shall be controlling only as to the rates for reimbursement of alcohol and other drug program services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this section shall report to the department and the county any information required by the department in accordance with the procedures established by the director of the department.

(b) The Legislature recognizes that alcohol and other drug abuse services differ from mental health services provided through the State Department of Mental Health and therefore should not necessarily be bound by rate determination methodology used for reimbursement of those services formerly provided under the Short-Doyle program and reimbursed under the Medi-Cal Act. ~~The department and the State Department of Health Services shall, pursuant to Section 14021.5 of the Welfare and Institutions Code, develop a ratesetting methodology suitable for alcohol and other drug services reimbursed under the Medi-Cal program using an~~

~~all-inclusive rate encompassing the costs of reimbursable service functions provided by each authorized modality.~~

Section 11851.5 is amended to read:

11851.5. In addition to those expenditures authorized under Section 11851, expenditures subject to payment shall include expenses incurred by members of the local advisory board on alcohol and other drug programs in providing alcohol and other drug program services through the implementation of executed negotiated net amount contracts, ~~and Drug Medi-Cal contracts,~~ or approved county plans. Payment shall be made of actual and necessary expenses of members incurred incident to the performance of their official duties and may include travel, lodging, and meals while on official business.

Section 11852 is amended to read:

11852. Whenever a county receives funds under a grant program for alcohol and other drug abuse services, as well as under the county plan, or negotiated net amount contract, ~~and Drug Medi-Cal contract,~~ whichever is applicable, from either the federal or state government, or from any other grantor, public or private, and fails to include that grant program in the county plan, or negotiated net amount contract, ~~and Drug Medi-Cal contract,~~ whichever is applicable, and alcohol and other drug program budget, the director shall not thereafter approve any, or provide, advance payment claims submitted by the county for state reimbursement under this part unless and until the county plan, or negotiated net amount contract, ~~and Drug Medi-Cal contract,~~ whichever is applicable, and alcohol and other drug program budget has been reviewed to include that grant program and the revised county plan, or negotiated net amount contract, ~~and Drug~~

~~Medi-Cal contract~~, whichever is applicable, and budget is approved by the director.

Section 11852.5 is amended to read:

11852.5. (a) Charges shall be made for services rendered to each person under a county plan or net negotiated amount contract in accordance with this section. Charges for the care and treatment of each client receiving service under a county plan, or negotiated net amount contract, ~~and Drug Medi-Cal contract~~, whichever is applicable, shall not exceed the actual cost thereof as determined by the director, in accordance with standard accounting practices. The fee requirement shall not apply to prevention and early intervention services. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a client, his or her estate, or his or her responsible relatives to pay the charges shall be determined in accordance with this section.

(b) Each county shall determine the liability of clients rendered services under a county plan, or negotiated net amount contract, ~~and Drug Medi-Cal contract~~, whichever is applicable, and of their estates or responsible relatives, to pay the charges according to ability to pay. Each county shall collect the charges. The county shall establish and maintain policies and procedures for making the determinations of liability and collections, by collecting third-party payments and from other sources to the maximum extent practicable. The written criteria shall be a public record and shall be made available to the department or any individual. Fees collected shall be retained at the local level and be applied toward the purchase of additional drug services.

(c) Services shall not be denied because of a client's ability or

inability to pay. County-operated and contract providers of treatment services shall set and collect fees using methods approved by the county alcohol and drug program administrator. All approved fee systems shall conform to all of the following guidelines and criteria:

- (1) The fee system used shall be equitable.
- (2) The fee charged shall not exceed actual cost.
- (3) Systems used shall consider the client's income and expenses.
- (4) Each provider fee system shall be approved by the county alcohol and drug program administrator. A description of each approved system shall be on file in the county board office.

(d) To ensure an audit trail, the county or provider, or both, shall maintain all of the following records:

- (1) Fee assessment schedules and collection records.
- (2) Documents in each client's file showing client's income and expenses, and how each was considered in determining fees.

(e) Each county shall furnish the director with a cost report of information the director shall require to enable the director to maintain a cost-reporting system of the costs of alcohol and other drug program services in the county funded in whole or in part by state-administered funds. The cost-reporting system established pursuant to this section shall supersede the requirements of paragraph (2) of subdivision (b) of Section 16366.7 of the Government Code for a quarterly fiscal reporting system. An annual cost report, for the fiscal year ending June 30, shall be submitted to the department by November 1.

(f) The Legislature recognizes that alcohol and other drug programs may provide a variety of services described in this part, which services will vary depending on the needs of the communities that the programs serve. In devising a system to assure that a county has expended its funds pursuant to any applicable executed

negotiated net amount contract, ~~Drug Medi-Cal contract, and~~ or approved county plan, including the budget portions of the plan, the department shall take into account the flexibility that a county has in the provision of services and the changing nature of alcohol and other drug programs in responding to the community's needs.

(g) The department shall maintain a reporting system to assure that counties have budgeted and expended their funds pursuant to their executed negotiated net amount contracts, ~~Drug Medi-Cal contracts, and~~ or approved county plans, whichever is applicable.

Section 11853 is amended to read:

11853. Counties are encouraged to contract with providers for the provision of services funded through the county's executed negotiated net amount contract, ~~Drug Medi-Cal contract, and~~ or approved county plan, whichever is applicable. Counties shall comply with the regulations of the department for the management of contracts with community organizations, as contained in the county administration and program services regulations as developed by the department.

Section 11853.5 is amended to read:

11853.5. The department shall review each county's executed negotiated net amount contract, ~~Drug Medi-Cal contract, and~~ or approved county plan, whichever is applicable, to determine that it complies with the requirements of this part and with the standards adopted under this part.

Uncodified Section XX

The amendments to Health and Safety Code Sections 11758.12, 11758.20, 11758.23, 11814, 11817.3, 11817.8, 11818, 11835, 11851.5, 11852, 11852.5, 11853, and 11853.5 shall become operative June 30, 2012.